



*Department of
the Secretary of State*

Bureau of Motor Vehicles

*Matthew Dunlap
Secretary of State*

*Catherine Curtis
Deputy Secretary State*

*Robert E. O'Connell, Jr.
Dir., Driver License Services*

DECISION IN THE MATTER OF:

**Dave Gould Ford
Junction of Routes One & Three
15 Downeast Highway
Ellsworth, Me. 04605**

A hearing was held on January 15, 2008 in Ellsworth, Maine at the request of Dave Gould Ford to show cause why its new car, motorcycle and loaner dealer license and dealer plates should not be revoked by the Secretary of State, Bureau of Motor Vehicles pursuant to Title 29-A MRSA § 903-1 (F). Dave Gould Ford was represented by Attorney Nathan Dane III.

At this hearing, the Secretary of State presented two witnesses: Karen Robidoux, a citizen of the State of Maine and a customer of Dave Gould Ford, and Paul A. Doten, an Investigator for the Bureau of Motor Vehicles, who specializes in Dealer Licensing and Fraud issues. Six documentary exhibits submitted by the Secretary of State were admitted without objection by the petitioner. The petitioner elected to present one witness, Dave Gould, the owner of the corporation, Dave Gould Ford, and submitted one document, a Temporary Restraining Order between Ford Motor Credit Company and Dave Gould Ford, marked and admitted as Exhibit Seven.

Based on the sworn testimony, the documents, and the applicable statutes and laws, I make these findings of fact:

From May through mid August of 2007, buyers of new vehicles at Dave Gould Ford were victims of fraud. Mr. Doten has accumulated one hundred sixty file folders of retail customers whose liens on vehicles they traded in to purchase the new vehicles were not paid to their Financial Institution by Dave Gould Ford and /or retail customers that purchased Life and Disability Insurance, GAP coverage, or extended Warranty insurance but such fees/applications were never submitted to the Underwriting Company by Dave Gould Ford. As of the date of this hearing, Dave Gould has testified that all the money has since been paid to these respective institutions. However Karen Robidoux stated that it was on January 14, 2008 (the day before this hearing) that she received word that the Lien on her vehicle held by Citi Financial was fully paid off. She also has stated that her personal Credit Rating has been lowered due to the seven months it has taken for this action to be completed. Investigator Doten reported that while the Insurance Underwriters later agreed to file all the applications even before Dave Gould actually paid them, fourteen of the Life and Disability applicants are permanently denied because their applications

were received more than thirty days beyond the deadline. Those retail customers then were defrauded of their right to have this extra coverage on their new vehicles.

When Mr. Doten began this investigation in July of 2007, he was made aware of one retail customer complaint on the non payment of her lien. When this investigator confronted Dave Gould on this one matter, Mr. Gould assured him this was one isolated incident.

At the hearing, Mr. Gould explained that Ford Motor Credit Company was confiscating every dollar that was coming in from the sale of new cars, and so there was no cash to pay off liens or to send to the Insurance Companies. Why Ford Motor Credit Company was taking this action is unclear but there is no doubt that Mr. Gould actually had no money to meet these financial obligations. Mr. Gould also is believable when he testifies that he has borrowed money to pay back and meet all his business obligations. He is requesting that the revocation be rescinded so that he can sell this licensed business to an interested party in the next thirty days, and not lose the Ford franchise in the meantime.

Fraud is defined as a misrepresentation in any manner, whether intentionally false or due to a gross negligence of a material fact; a promise or representation not made honestly and in good faith, and an intentional failure to disclose a material fact (Title 10, Maine Commerce and Trade, Chapter 204 § 1171 Definitions). Mr. Gould chose not to disclose a material fact about his business to his customers, and when he promised to deliver the terms of their Purchase and Sales Agreements, he knew full well he would be unable to do so.

Although Mr. Gould must be respected for taking personal responsibility for these matters **NOW**, the fact remains that he committed approximately one hundred sixty fraudulent actions against innocent and trusting citizens of Maine. Mrs. Robidoux is just one example of a retail customer who suffered when her loan was not paid off promptly. She had to spend hours and hours trying to rectify this wrong done to her.

It is my assignment to weigh the difficulties that Mr. Gould will experience as a result of an unfavorable decision and compare his inconvenience with the potential harm that might affect other customers if the Secretary of State merely reinstates Dave Gould Ford's licenses. The citizens of Maine rely on the Secretary of State to make responsible decisions as to which motor vehicle dealers will be allowed to handle financial transactions that are at times complex and usually involve significant amounts of money. The public has a right to expect that if and when Dave Gould Ford is issued a motor vehicle dealer license, the Secretary of State has done its best job in protecting the public by having a sufficient opportunity to fully review the information requested in a motor vehicle dealer application and from an inspection.

By a preponderance of the evidence, I find that the Secretary of State took appropriate action when it revoked Dave Gould Ford's license on December 31, 2007 pursuant to its authority in 29-A MRSA § 903-1 (F) and § 853. I find that neither the explanations offered by this Petitioner, nor the restitution he has made to his customers, are sufficient enough for the Secretary of State to rescind the revocation. This petition is denied.

As outlined in the Notice of Revocation (exhibit 5), the revocation of Dave Gould Ford's license and dealer plates may be restored after it submits all required application documents, pays the required fees, submits to an inspection, and pays a \$35.00 reinstatement fee.

Dave Gould Ford is notified that this decision may be appealed to the Superior Court within 30 days from receipt pursuant to 29-A MRSA § 903-1 (F) and § 853 and 5 MRSA et. seq.

Dated: January 17, 2008

Sincerely,

Joanne Baumrind
Hearings Officer

Cc: Atty. Nathan Dane
David Guilmette
Paul Doten
Mark Silk
Karen Robideaux
Gary Hinkley
Sue Harris Pomerleau

JB/csr